

solution to the long range, national skill shortage problem.

The U.S. is currently not providing domestic workers with enough opportunities to upgrade their skills so that they can fully participate in the new economy. They deserve these opportunities, and American business needs their talents.

I commend Senators HATCH and ABRAHAM for agreeing to include these training provisions in the bill before us today, and for committing to help bridge the high tech skills gap.

CONGRESS MUST REJECT THE VIEW THAT THE ONLY PRO-IMMIGRANT AGENDA THIS SESSION IS AN H-1B AGENDA

Finally, Congress cannot continue to ignore other equally important immigration issues which are as critical to immigrants in our workforce as H-1B visas are to the information technology industry. Unfortunately, unlike the H-1B issue, these other equally important issues have been ignored by too many members of Congress.

Last year, a broad coalition of immigrant and faith-based groups launched the "Fix '96" campaign to repeal the harsh and excessive provisions in the 1996 immigration and welfare laws, to restore balance and fairness to current law, and to correct government errors which prevent certain immigrants from receiving the services Congress intended.

All of the issues raised in the "Fix '96" campaign are still outstanding. A number of bills, including the Latino and Immigrant Fairness Act, have been introduced proposing solutions to these problems. However, the Republican leadership continues to block action on these important proposals. These issues include parity legislation for Central Americans and Haitians, restoring protections to asylum seekers, restoring due process in detention and deportation policy, restoring public benefits to legal immigrants, and restoring protections to battered immigrant women and children.

The Latino and Immigrant Fairness Act provides us with an opportunity to end a series of unjust provisions in our current immigration laws, and build on the most noble aspects of our American immigrant tradition.

It restores fairness to the immigrant community and fairness in the nation's immigration laws. It is good for families and it is good for American business.

The immigrant community—particularly the Latino community—has waited far too long for the fundamental justice that this legislation will provide. These issues are not new to Congress. The immigrants who will benefit from this legislation should have received permanent status from the INS long ago.

Few days remain in this Congress, but my Democratic colleagues and I are committed to doing all we can to see that both the Latino and Immigrant Fairness Act and the H-1B high tech visa legislation become law this

year. I urge my colleagues to give equal priority to these basic immigration issues that affect so many immigrant families in our workforce. The time to act is now, and there is still ample time to act before Congress adjourns.

TRAINING AND EDUCATION PROGRAMS

Mr. KENNEDY. Mr. President, we in the Senate cannot originate a revenue measure to fund the new training and education program. But it would be a serious mistake to enact a final bill that does not call on employers to pay \$1,000 per visa for the training and education necessary to improve the skills of U.S. workers and students.

Mr. ABRAHAM. I, too, am committed to seeing to it that there is funding for these programs and a \$1,000 fee is appropriate and would accomplish this goal. As the Ranking Member knows, I believe that as far as the shortage of highly skilled workers is concerned, we have both a short term and long term problem, and I believe these programs are an integral part of addressing our long term problem. I very much appreciate your ongoing willingness to work on these important programs for training and educating Americans so that they will be ready to take these jobs, and the leadership you have shown on these matters. I pledge to work with you, the other Members of this body, the business community, and other affected outside interests to seek ways to help fund these programs consistent with the principle you articulated.

Mr. KENNEDY. In addition, I believe it is important to exclude from that fee any employer that is a primary or secondary education institution, an institution of higher education, as defined in the Higher Education Act of 1965, a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization.

Mr. ABRAHAM. I agree with the Ranking Member, and I support his objectives. I will work with Senator KENNEDY to ensure that these institutions are excluded from the imposition of fees.

Mr. KENNEDY. In conclusion, I would simply like to thank Senator ABRAHAM for his ongoing willingness to work on these important programs for training and educating Americans so that they will be ready to take these jobs, and the leadership he has consistently shown on these issues.

Mr. DOMENICI. Mr. President, I further ask unanimous consent the Senate now lay aside S. 2045 until 9:30 a.m. on Tuesday.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

VISA WAIVER PERMANENT PROGRAM ACT

Mr. DOMENICI. I ask unanimous consent the Senate proceed to H.R.

3767, the visa waiver bill, and that the substitute amendment, on behalf of Senators ABRAHAM and KENNEDY, which is at the desk, be agreed to, no further amendments or motions be in order, the bill be advanced to third reading, and passage occur immediately following the passage vote on S. 2045.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. ABRAHAM. Mr. President, I rise to support the passage of H.R. 3767, the Visa Waiver Permanent Program Act. This legislation, as amended, is important not only because it facilitates travel and tourism in the United States, thereby creating many American jobs, but also because it benefits American tourists who wish to travel abroad, since visa requirements are generally waived on a reciprocal basis.

The Visa Waiver Pilot Program authorizes the Attorney General to waive visa requirements for foreign nationals traveling from certain designated countries as temporary visitors for business or pleasure. Aliens from the participating countries complete an admission form prior to arrival and are admitted to stay for up to 90 days.

The criteria for being designated as a Visa Waiver country are as follows: First, the country must extend reciprocal visa-free travel for U.S. citizens. Second, they must have a non-immigrant refusal rate for B-1/B-2 visitor visas at U.S. consulates that is low, averaging less than 2 percent the previous two full fiscal years, with the refusal rate less than 2.5 percent in either year, or less than 3 percent the previous full fiscal year. Third, the countries must have or be in the process of developing a machine-readable passport program. Finally, the Attorney General must conclude that entry into the Visa Waiver Pilot Program will not compromise U.S. law enforcement interests.

Countries are designated by the Attorney General in consultation with the Secretary of State. Nations currently designated as Visa Waiver participants are Andorra, Argentina, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, United Kingdom, and Uruguay. Greece has been proposed for participation in the program.

The Visa Waiver Pilot Program was established by law in 1986 and became effective in 1988, with 8 countries participating for a period of three years. The program has been considered successful and as such has been expanded to include 29 participating countries. Since 1986, Visa Waiver has been reauthorized on 6 different occasions for periods of one, two, or three years at a time.

The time has come to make the Visa Waiver Pilot Program permanent and, in the process, to strengthen further current requirements. That is the purpose of this bill, which has been amended and worked out jointly with our House counterparts, in particular House Immigration Subcommittee Chair LAMAR SMITH, who I thank for his work on this bill. This legislation is very close to S. 2376, the Travel, Tourism, and Jobs Preservation Act, which I introduced earlier this year with Senators KENNEDY, LEAHY, DEWINE, JEFFORDS, AKAKA, GRAHAM, GRAMS, MURKOWSKI, and INOUE, all of whom I thank for their support.

The legislation we are about to pass would accomplish a number of things.

First, it would make the Visa Waiver Pilot Program permanent. This is important since no serious disagreement exists that the program should continue in place for the foreseeable future, and no significant problems have been raised with the fundamentals of how it has been operating for the past 14 years. To the contrary, failure to continue the program would cause enormous staffing problems at U.S. consulates, which would have to be suddenly increased substantially to resume issuance of visitor visas. It would also be extremely detrimental to American travelers, who would most certainly find that, given reciprocity, they now would be compelled to obtain visas to travel to Europe and elsewhere. Finally, there are costs to continuing to reauthorize the program on a short-term rather than a permanent basis, as it periodically creates considerable uncertainty in the United States and around the world about what documents travelers planning their foreign travel have to obtain.

Second, the current requirement that countries be in the process of developing a program for issuing machine-readable passports will be replaced with a stricter requirement that all countries in the program as of May 1, 2000 certify by October 1, 2001 that they will have an operational machine-readable passport program by 2003 and that new countries have a machine-readable passport program in place before becoming eligible for designation as a Visa Waiver country. The bill also establishes a deadline of October 1, 2007 by which time all travelers must have machine-readable passports to come to the United States under Visa Waiver. The judgment of everyone involved in these issues is that the technology is now sufficient that it is time for everyone to move from the concept and planning stages to the prompt implementation of these requirements.

Finally, the legislation, altered from the House-passed version, would allow for an "emergency termination" by the Attorney General, in consultation with the Secretary of State, of a country's Visa Waiver designation in an extreme and unusual circumstances. These circumstances are a "war (including undeclared war, civil war, or other

military activity on the territory of the program country; a severe breakdown in law and order affecting a significant portion of the program country's territory; a severe economic collapse in the program country; or any other extraordinary even in the program country that threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States.)" Considering the impact of such a termination on U.S. foreign policy interests and the conduct of the State Department itself, it is my belief that the Secretary of State would exert considerable authority in determining whether such an "emergency termination" was warranted.

Mr. President, I urge passage of this legislation.

Mr. KENNEDY. Mr. President, I am proud to join Senator ABRAHAM, Senator LEAHY, and others in cosponsoring the Travel, Tourism and Jobs Presentation Act. This measure will reauthorize the Visa Waiver Program and make it permanent.

This visa waiver program allows individuals from designated low risk, high volume countries to enter the United States as temporary visitors for business or pleasure without first obtaining a visa. Individuals visiting the United States under the visa waiver program must complete an admission form prior to arrival. Their visit may last only ninety days, with thirty days extensions allowed only in the case of emergency. Countries participating in the visa waiver program must meet certain requirements, such as possessing a low non-immigrant refusal rate for B-1/B-2 visas and utilizing, or currently developing, a machine readable passport program. Finally, the Attorney General must determine that each country's participation in the program will not compromise United States law.

By eliminating the visa requirement, the visa waiver program facilitates international travel and increases the number of visitors for business and tourism. These effects generate economic growth and stimulate international trade and commerce. According to the INS, over 17 million visitors to the United States arrived under the visa waiver program in FY 1998. The program is strongly supported by the State Department because it reduces consular workloads, allowing the officers to shift staff and scarce resources to other pressing matters, as well as reducing costs.

Despite operating efficiently and providing enormous benefit to the United States economy and the State Department for the past eleven years, the visa waiver program remains a pilot program. This bill reauthorizes this important program and makes it permanent.

This legislation also strengthens security precautions under this program by requiring participating countries to incorporate machine readable passport

programs by October 2003 and nationals from these countries to possess readable passports by 2008. In addition, the Attorney General, in consultation with the Secretary of State, must continue to evaluate the effect of a new country's inclusion in the visa waiver program on law enforcement and national security. Continuing countries in the program are evaluated every five years.

I am especially pleased that Portugal was recently added to the visa waiver program. Travel between our two countries is significantly easier because cumbersome paperwork and delays have been eliminated—obstacles that needlessly prevented Portuguese families from visiting their loved ones here in the United States. Portugal's inclusion in the Program will benefit thousands of Portuguese families in Massachusetts and around the nation.

Although I strongly support this important bill, I have very serious concern about the amendment that Senator HELMS has offered amending the Conyers provision of the visa waiver bill. Representative CONYER's provision simply states that visas that are wrongfully denied based on race, sex, disability or other unlawful grounds cannot be included in computations determining a country's admission into the visa waiver program. The amendment Senator HELMS offers pertaining only to the Conyers provision. It seeks to preclude judicial review of any visa denying visas, denial of admission to the United States, the computation of visa refusal rates, or the designation or non-designation of any country.

I have reluctantly agreed to it because it is surely symbolic and will have no practical legal effect. Under current law, consular visa determinations, the denial of admission under the visa waiver program, or determinations regarding designation of a country into the visa waiver program are not subject to court review.

Nonetheless, court stripping provisions, whether symbolic or not, are anathema to our judicial system. I thought that Republicans had learned the importance of judicial review in the *Elian Gonzalez* case. Such provisions allow life-shattering determinations to be made at the unreviewable discretion of an administrative functionary. The most fundamental decisions are being made on the basis of a cursory review of a few pages in a file, or a perfunctory interview, without the possibility of any appeal or judicial review. This is a recipe for disastrous mistakes and abuse.

This excellent program has been a pilot program for too long. Its enormous benefits to the United States economy and the efficiency it creates for the federal government are obvious. It is time we make this light of this fact and make this important program permanent. I urge all of my colleague to support this important bill.

Mr. LEAHY. Mr. President, this bill addresses a critically important issue: the preservation of our visa waiver program. I am a cosponsor of the Senate

version of this bill, and I strongly recommend the passage of H.R. 3767.

This legislation will achieve the important goal of making our visa waiver program permanent. We have had a visa waiver pilot project for more than a decade, and it has been a tremendous success in allowing residents of some of our most important allies to travel to the United States for up to 90 days without obtaining a visa, and in allowing American citizens to travel to those countries without visas. Countries must meet a number of requirements to participate in the program, including having extraordinarily low rates of visa refusals. Of course, the visa waiver does not affect the need for international travelers to carry valid passports.

The pilot project expired on April 30, and I had sought passage of S. 2367, which is incorporated into the bill we consider today, before that expiration date. Indeed, I encouraged the discharge of this bill from the Judiciary Committee in April so that the Senate could act upon this highly time-sensitive matter. Unfortunately, this bill was instead held hostage to other issues. Fortunately, the Administration extended the program administratively until the end of May, but despite my best efforts we failed to meet that deadline as well. As a result, the program was extended until the end of June, but once again the Senate did not meet the deadline. The Administration then extended the program through July, sparing thousands of American tourists and international business travelers tremendous inconvenience and cost during the busy summer traveling season. Before the August recess, we once again failed to act on this legislation, forcing the Administration to extend it again. It is now well past time to end this charade, pass this bill, and send it back to the House for its final approval.

Rather than simply pass another extension of the pilot program, it is time to make this program permanent—it has stood the test of time for well over a decade. In order to address any security concerns about making the program permanent, the requirements placed upon participating countries have been tightened. Indeed, countries wishing to participate in the visa waiver program must meet each of the following four criteria: the participating country must allow U.S. citizens to travel without a visa; the country must have a nonimmigrant refusal rate for B-1/B-2 visitor visas at U.S. consulates that is low, averaging less than 2 percent the previous two full fiscal years, with the refusal rate less than 2.5 percent in either year, or less than 3 percent the previous full fiscal year; the country must already possess or be in the process of developing a machine-readable passport program; and, the Attorney General must conclude that entry into the Visa Waiver Pilot Program will not compromise U.S. law enforcement interests.

The visa waiver program provides substantial benefits to both the American tourism industry and to Americans traveling abroad. I urge the Senate to make it permanent.

Although I am a strong supporter of the bill, I must speak out against the amendment that has been inserted into the bill by Senator HELMS. This amendment states that under a certain paragraph of this bill, no court will have jurisdiction to review any visa refusal based on race, sex, or disability. It is my understanding that this provision has no practical effect, since affected foreign nationals would not be able to bring such a claim in an American court in the first place. Because it is effectively a dead letter, and because of the importance of the visa waiver program and other amendments to this bill, I have chosen not to assert rights and deny unanimous consent. But this provision is offensive to our legal traditions. I have consistently opposed attempts to strip courts of authority to resolve immigration matters, and I am particularly opposed to such attempts where the stripping is directed specifically toward claims asserting discrimination. Judicial review is a critical part of American law, and we should not be impinging upon it—symbolically or otherwise.

Finally, passage of this bill should not be misinterpreted as a signal that this Congress has dealt fairly or adequately with immigration issues. There is still so much to do in the little time we have left, from passing the Latino and Immigrant Fairness Act—to dealing with the aftereffects of the immigration legislation this Congress passed in 1996. In particular, I would call again for hearings on S. 1940, the Refugee Protection Act. This is a bill I introduced with Senator BROWNBACK and a number of other Senators that would undo the damage that has been done to our asylum process by the implementation of expedited removal. I believe it, like so many immigration issues that have been ignored for the last 21 months, deserves the attention of this Congress.

The amendment (No. 4276) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The bill (H.R. 3767) was ordered to a third reading and was read the third time.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001—CONFERENCE REPORT

Mr. DOMENICI. Mr. President, I submit a report of the committee of conference on H.R. 4733 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R.

4733) making appropriations for energy and water development for the fiscal year 2001, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The report was printed in the House proceedings of the RECORD of September 27, 2000.)

Mr. DOMENICI. Mr. President, I ask that the Senate now turn to consideration of the conference report accompanying the fiscal year 2001 Energy and Water Development Act. Earlier today, the House passed the conference report by a vote of 301 to 118, and I hope the Senate will also overwhelmingly support the conference report. I am very pleased that we are able to get this very important conference report to the floor, given the difficulties affecting more appropriations bills this time of year. Senator REID and I, along with Chairman STEVENS and Senator BYRD, have worked hard to prepare an outstanding bill that meets the needs of the country and addresses many of the Senators' top priorities.

The Senate and House full committee chairman were very supportive and have provided the additional resources at conference that were necessary to address many priority issues for Members. They have allowed the House to come up \$630 million to the Senate number on the defense allocation \$13.484 billion, and the Senate non-defense allocation has increased by \$1.1 billion.

I would now like to highlight some of the great things we have been able to do in this bill.

The conference report provides \$4.5 for Army Corps of Engineers water projects, an increase of \$400 million over the Senate and \$383 over the President's Request.

The increased resources have allowed us to get started on the very highest priority new starts in 2001—something we were not able to do under our original allocation.

The conference report provides \$3.20 billion for DOE Science, an increase of \$330 million over the Senate and \$420 million over last year. We heard from many members over the last few months about providing more money for science and I am pleased we were able to heed their concerns and make significant investments in our future.

On the defense side, the conference report provides \$5 billion for nuclear weapons activities, an increase of \$150 million over Senate and \$600 million over last year.

On clean-up, we have been able to continue to provide the environmental clean-up money that is so important to many of our members across the country. The conference report provides \$6.1 billion, and increase of \$390 million over last year.

We do have a few controversial provisions in this bill. The conference report